



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

CCB/162929

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 23, 2014, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Racine County Department of Human Services in regard to Child Care, a hearing was held on January 20, 2015, at Racine, Wisconsin.

NOTE: The record was held open until January 27, 2015, to give the Petitioner an opportunity to submit a copy of the paperwork that she completed in September 2014. No documentation was received by the designated deadline.

The issue for determination is whether the Racine County Department of Human Services (the agency) correctly began Petitioner's childcare eligibility on November 1, 2014.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

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█

Respondent:

Department of Children and Families  
201 East Washington Avenue  
Madison, Wisconsin 53703

By: Rhonda Kramer, Lead Economic Support Specialist  
Racine County Department of Human Services  
1717 Taylor Ave  
Racine, WI 53403-2497

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.

2. Petitioner completed and signed an application for childcare (Childcare Registration) on November 17, 2014. It was turned in to the agency on November 19, 2014. (Exhibit 3; Testimony of Petitioner)
3. On November 20, 2014, the agency sent the Petitioner a notice, indicating that she had been determined eligible for childcare as of November 1, 2014. (Exhibit 5)
4. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on December 23, 2014. (Exhibit 1)

### **DISCUSSION**

Petitioner filed a request for hearing, because she wants her childcare benefits backdated to September 2, 2014.

“Eligibility may be backdated only to the first of the month of the application filing date, unless the applicant requested an intake appointment and was given an appointment for the following month. In this situation, eligibility may be backdated to the first of the month that the agency received a signed request for child care assistance (RFA or DWSP-14880).” *Wisconsin Shares Childcare Assistance Manual §1.3.6*

In the case at hand, it is undisputed that the Petitioner completed an application for childcare in November 2014. The agency received the signed application on November 19, 2014. As such, the agency correctly began the Petitioner’s eligibility for childcare on November 1, 2014.

The Petitioner argues that the rules should not be applied in her case, because she spoke to her caseworker about applying for child care benefits in September and was told that she would be approved for childcare benefits beginning in September 2014.<sup>1</sup> The Petitioner testified that she spoke to her caseworker’s manager and was again reassured that her benefits would begin in September 2014. However, there is nothing in the record to suggest the Petitioner provided her caseworker with a signed application for childcare benefits at that time.

Further, Administrative Law Judges do not have the authority to disregard the law, but must follow the law as it is written. (See, *Final Decision*, OAH Case No. A-40/44630, [by Timothy F. Cullen, Secretary, DHSS] (Office of Administrative Hearings, n/k/a, Division of Hearings & Appeals- Work & Family Services Unit December 30, 1987)(DHSS); "An administrative agency has only those powers which are expressly conferred or can be fairly implied from the statutes under which it operates. [citation omitted]" *Oneida County v. Converse*, 180 Wis.2nd 120, 125, 508 N.W.2d 416 (1993). As such, I do not have the authority to backdate the Petitioner’s benefits to September 2, 2014.

### **CONCLUSIONS OF LAW**

The agency correctly began the Petitioner’s childcare eligibility on November 1, 2014.

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<sup>1</sup> The Petitioner should note that there is a difference between eligibility determinations and authorizations. Authorization means the number of hours for which a child care provider will be paid and the rate at which the childcare provider will be paid. See Wis. Stats. §59.155(6g)(a)1. and Wis. Admin. Code §DCF201.04(2g). Even if a person is eligible for child care assistance, the county agency still has the discretion to limit or refuse authorizations under certain circumstances, such as when verifications of employment have not been provided. See Wis. Stats. §59.155(6g)(a)1., Wis. Admin. Code §DCF201.04(2g) and *Wisconsin Share Child Care Assistance Manual §2.1.2.1* It is possible that there may have been some confusion in this regard, as well.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

**REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 24th day of February, 2015.

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\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on February 24, 2015.

Racine County Department of Human Services  
Child Care Benefits